IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

(1) S.B. CIVIL WRIT PETITION NO. 84/2007
UDA RAM Vs. THE MUNICIPAL BOARD, JHUNJHUNU & ANR.
&
(2) S.B. CIVIL WRIT PETITION NO. 1250/2007
UDA RAM Vs. DISTRICT JUDGE, JHUNJHUNU & ORS.

DATE: 02.08.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. M.M. Ranjan for the petitioners.
Mr. G.K. Garg for the respondents.

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These are two writ petitions filed by the petitioner; one writ petition bearing No. 84/2007 is directed against the impugned order dated 13.10.2006 passed by the Minister for Local Self Department, Govt. of Rajasthan, by which the recommendations made by the Settlement Committee (Samjauta Samiti) have been rejected.

Another connected writ petition bearing No. 1250/2007 has been preferred by the petitioner against the judgment dated 19.12.2006 passed by the Additional Civil Judge (Sr. Division), Jhunjhunu in Civil Application No. 30/2006, whereby the temporary injunction application filed by the petitioner under Order 39 Rule 1 and 2 r/w Section 151 CPC has been

rejected. This order dated 19.12.2006 was challenged by the petitioner before the District Judge, Jhunjhunu by way of filing appeal and the same has been dismissed by the Appellate Authority vide its judgment dated 20.01.2007.

In the writ petition No. 84/2007, the matter comes up on the application under Article 226(3) of the Constitution of India for vacation of ex party interim order dated 07.05.2007, whereby status quo is ordered to be maintained.

In connected writ petition No. 1250/2007, no such order has been passed and only notices have been issued.

Since both the writ petitions relate to same piece of land, therefore, they were ordered to be listed together, heard together and are being decided by this common order.

In the writ petition No. 84/2007, the petitioner challenged the order dated 13.10.2006 passed by the Minister for Local Self Department, Govt. of Rajasthan on the ground that the Samjauta Samiti is empowered to regularise the possession of the petitioner and the Samjauta Samiti to this effect has passed the order dated 18.09.2003 that in case the petitioner deposits Rs. 750/- per Sqm. then the

disputed land be regularised in favour of the petitioner. This order has been quashed and set-aside by the Minister for Local Self Department, Govt. of Rajasthan on the ground that Samjauta Samiti has exceeded its jurisdiction and passed the order beyond its jurisdiction. It is also observed that the prices are not on the basis of market rate and thus direct loss will be caused to the Municipal Board, Jhunjhunu.

Further as per the circular dated 01.01.2002, the Samiti was only empowered to regularise the urban land measuring 300 Sq. Yard., whereas in the instant case the petitioner has encroached over the land measuring 933 Sq. Yard, therefore, the order of Samjauta Samiti has been quashed and set-aside vide order dated 13.10.2006.

The petitioner has raised legal issues that this order dated 13.10.2006 cancelling the order passed by the Samjauta Samiti is beyond limitation as the Samjauta Samiti has passed the order in the year 2003, whereas this order has been passed on 13.10.2006.

It is given out that the petitioner has constructed a school building over the disputed land.

Similarly in another writ petition No. 1250/2007, the petitioner filed a suit for temporary injunction under Order 39 Rule 1 and 2 r/w Section 151

CPC and that application of the petitioner has been rejected by the Additional Civil Judge (Sr. Division), Jhnuhjhunu vide order dated 19.12.2006 on the ground that the petitioner is encroacher over the disputed land. It is also observed that neither the Nagar Palika has constituted any Samjauta Samiti nor recommendations of the Samjauta Samiti is complied with. Thus, the order/recommendations itself becomes non-existent. It is also observed that no balance of convenience is in favour of the petitioner and having considered each and every aspect, the temporary injunction application has been rejected vide order dated 19.12.2006.

This order has been challenged by the petitioner before the District Judge, Jhnujhunu and the Appellate Authority has considered all the aspects and the judgments passed by this Court and observed that the petitioner filed a revision petition before this Court which was registered as Revision Petition No. 446/92 and the same was decided by this Court vide order dated 28.07.92, whereby this Court refused to interfere with the order passed by the Civil Judge and the revision petition filed by the petitioner was dismissed observing that the petitioner is in possession of land for the last 5 years, therefore, the Municipal Board is entitled to dispossess the

petitioner in accordance with the law.

It is given out by the learned counsel for the respondents that the proceedings for dispossessing the petitioner are already initiated.

The Appellate Court considering all aspects held that the Samjauta Samiti is not empowered to give decision and the decision which was given is without competence and the petitioner has not complied with the resolutions passed by the Samjauta Samiti and the recommendations of the Samjauta Samiti have been withdrawn/cancelled by the State Government.

I have heard rival submissions of the respective parties and have also gone through the impugned order passed by the Minister for Local Self Department, Govt. of Rajasthan dated 13.10.2006 by which the order of Samjauta Samiti has been quashed and set-aside and now the Samjauta Samiti is not in existence.

Now after withdrawal of the notification which was earlier issued vide notification dated 06.08.2004, even otherwise the petitioner has not complied with the directions and failed to deposit the amount well within time and as the petitioner has not complied with the order passed by the Samjauta Samiti and the order of the Samjauta Samiti is cancelled, therefore, the

petitioner has got no right on the land and he is simply an encroacher over the land.

In view of the observations made herein above, both the writ petitions fail being misconceived and the same are hereby dismissed.

The ex parte interim order dated 07.05.2007 granted by this Court in S.B. Civil Writ Petition No. 84/2007 also stands rejected. Accordingly, the application under Article 226(3) of the Constitution of India stands allowed.

(K.S. RATHORE),J.

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